

## LABOUR AND EMPLOYMENT DEPARTMENT

The 23rd October, 1974

No. 9714-4Lab-74/32929.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Clutch Auto (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 85 of 1972

*between*

SHRI BALJIT SINGH WORKMAN AND THE MANAGEMENT OF M/S CLUTCH AUTO  
PRIVATE LTD., SECTOR 6, PLOT NO. 111, FARIDABAD

*Present —*

Shri R. N. Roy, for the workman.

Shri R. C. Sharma, for the management.

## AWARD

Shri Baljit Singh concerned workman was in the service of M/s Clutch Auto Private Ltd., Sector 6, Plot No. 111, Faridabad, as a Tool Room Miller, having joined on 1st May, 1971, at Rs 300 per mensem. His services were terminated by the management on 30th May, 1972. Feeling aggrieved, he raised a demand for reinstatement but without any satisfactory response from the management. This gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this Tribunal,—*vide* order No. ID/FD/72/40740, dated 23rd November, 1972, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference:—

Whether the termination of services of Shri Baljit Singh was justified and in order? If not, to what relief is he entitled?

The parties put in their pleadings. The management contested the claim of the workman on the ground that he had been charge-sheeted on 24th May, 1972 and four serious charges of misconduct had been levelled against him and it was further pleaded that the demand, the subject-matter of the present reference, was not first raised on the management and rejected by it so as to constitute an industrial dispute within the meaning of law.

From the pleadings of the parties the following issues arose for determination in the case:—

- (1) Whether the demand, the subject-matter of the present reference, was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect? (on workman)
- (2) Whether the termination of services of Shri Baljit Singh was justified and in order? If not, to what relief is he entitled?

Shri Baljit Singh workman concerned has made his detailed statement on oath and proved the letter, dated 25th May, 1972, Ex. W.W. 1/1 and the demand notice which forms part of the present reference. On the other hand, the management has examined three witnesses, namely, Shri Sardul Singh, Tool Room Incharge, M.W. 1, Shri Bhajan Singh, Production Incharge, M.W. 2 and Shri R. K. Puri, Manager-cum-Accountant, M.W. 3. The documentary evidence relied upon by the management consists of letter, dated 23rd March, 1972, asking Shri Baljit Singh workman concerned to work on the Milling Machine in the Milling Shop, Ex. M-1, his reply to this letter, Ex. M-2, A.D. receipt, Ex. M-3, charge-sheet dated 24th May, 1972, Ex. M-4, termination letter, dated 30th May, 1972, Ex. M-5, inspection report, dated 24th May, 1972, of Shri Chopra, Ex. M-6, Extract from the attendance register, Ex. M.W. 3/1, registered cover, Ex. M.W. 3/2, containing a letter, dated 27th March, 1972, asking him to show cause why his services should not be terminated.

The case has been well argued on both sides and I have given a very careful consideration to the material on record. The issues may be taken up separately.

#### Issue No. 1 .

The burden of this issue was on the workman and after careful scrutiny of the evidence on record I am satisfied that he has succeeded in discharging this burden. According to his statement on oath he had approached the management when his services had been terminated without any justification to take him back on duty but his demand was not accepted. He then gave the demand notice of the management which forms part of the present reference. The management did not send any reply. In the conciliation proceedings also the management did not show any willingness to take him back on duty. According to Shri R. K. Puri MW 3 all the correspondence pertaining to labour disputes was forwarded to Shri R. P. Khurana, Director of the company. Shri R. P. Khurana has not been examined as a witness and Shri R. K. Puri has shown his ignorance as to whether any letter or demand notice was received by Shri Khurana from the workman concerned. In the circumstances, it can not be held that the demand had not been properly raised by this workman and rejected by the management so as to constitute an industrial dispute within the meaning of the law. The material evidence having been withheld by the management, the presumption is that the workman had actually raised the demand direct on the management before taking up the matter for conciliation. The learned representative of the management has not been able to satisfy me to the contrary. Issue No. 1 is accordingly decided against the management and in favour of the workman.

#### Issue No. 2. :

On the admitted facts of the case, the management has not much to say with regard to this issue, the subject-matter of the reference. As would be clear from para No. 5 of the written statement Shri Baljit Singh workman concerned had been given the charge sheet on 24th May, 1972 containing the following 4 allegations :—

- (i) Refusing to operate the machine and also giving of bad production on 24th May, 1972.
- (ii) Remaining absent from 25th March, 1972 and onward without any cause or reason or application thereof.
- (iii) That he failed to notify about the change of the local address.
- (iv) That he refused to operate the machine.

He had submitted his explanation denying all the charges. Admittedly no enquiry was held into these charges of serious misconduct levelled against the workman which was necessary especially when he had specifically denied the charges levelled against him. The management has conveniently taken the plea that the enquiry was not considered necessary. The contention is preposterous, without force and against the principles of natural justice. No body can be condemned unheard. In all fairness a proper enquiry should have been held into the said charges levelled against the workman after giving him adequate opportunity of being heard which was not done for reasons best known to the management. According to the statement on oath of the workman concerned the charge sheet and the order of the termination of his services were delivered to him on the same day.

The management had the opportunity to establish these charges against the workman in the present proceedings, if it so liked, but the material evidence on the point has again been withheld. The charge sheet was given under the signatures of the Director, Shri R. D. Khurana. He has not been examined as a witness to prove the same. It has been urged that a report had been received against him from the officer incharge Shri Chopra Ex. M-6 on record that his work was not satisfactory and necessary action was called for against him. Shri Chopra has also not come into the witness box to establish this fact.

It will not be out of place to consider here that previously also the management had terminated the services of this workman on 23rd March, 1972 but through the good offices of Shri M. K. Jain, Deputy Labour Commissioner an amicable settlement was brought about on 23rd May, 1972 and the management had agreed to take this workman back on duty. He had accordingly reported for duty on 24th May, 1972 but instead of permitting him to work in the factory he was given the charge sheet containing the charges described above which is of the same date although according to him this charge sheet was delivered along with the termination order on 30th May, 1972.

So, taking into consideration all the facts and the circumstances of the case, as made out from the record, I am convinced that the management was bent upon throwing this workman out of job in spite of the amicable settlement brought about between the parties by Shri M. K. Jain, Deputy Labour Commissioner, Haryana, Chandigarh. The charges levelled against him were not established in any enquiry. No evidence has been led in the present case also to prove that he had refused to operate the machine and that he had given bad production on 24th May, 1972 as per item No. 1 of the charge sheet, which was the main charge against him. So far as the second charge of his remaining absent from duty from 25th March, 1972 was concerned the same stood condoned by virtue of the amicable settlement brought about between the parties on 3rd May, 1972 referred to above. In the circumstances, it was a frivolous charge that had been levelled against the workman.

The other two charges had also not been established. Charge No. 4 as to his refusing to operate the machine is covered by charge No. 1 of which there was no satisfactory evidence as already discussed. The remaining charge No. 3 relates to the non-intimation of the change of his local address. Not a word has been said by the three witnesses examined in the case with regard to this allegation and even if it be assumed for the sake of argument that he had failed to notify the change of his local address he could not be penalised for this omission by awarding to him the punishment of the termination of his service.

So, judged from whatever angle the termination of the services of the present workman is not found to be justified and in order and, in the result, he is entitled to reinstatement with continuity of his previous service and full back wages. The issue is decided against the management and the award is accordingly made in favour of the workman who is also entitled to Rs. 100 as the costs of the present proceedings.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 4th October, 1974.

No. 1157, dated 9th October, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana  
Faridabad.

Dated 4th October, 1974.

No. 9720-4Lab-74/32931.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Application No. 29 of 1972 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI BHIM SAIN, WORKMAN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT,  
LTD., CHARKHI DADRI

Present.—

Shri Bhim Sain, concerned workman, in person.

Shri Rameshwar Dayal, for the management.

#### AWARD

The facts material for the disposal of this complaint under section 33-A of the Industrial Disputes Act, 1947, may shortly be stated as under :—

The workman of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri, had raised certain demands which were referred for adjudication to this Tribunal and registered as reference No. 23 of 1972. One of the demands covered by the order of reference was as under :—

“Whether the Clerks working in the shifts in the Packing Department should be placed in Grade IVth as recommended by the Central Wage Board for Cement Industry for Clerks ? If so, with what details ?”

During the pendency of this reference the management transferred Shri Bhim Sain, the present complainant from the Packing Department to the Stores Department to work as a Clerk in the General Shift,—vide order, dated 10th October, 1972, which was received by him on 13th October, 1972 and had to take effect from 31st October, 1972. Feeling aggrieved, he brought this complaint with the allegations :—

(1) That besides being a Protected workman he was a workman concerned in the said reference.

- (2) That his transfer from the Packing Department to the Stores Department amounted to alteration in his service conditions as he had from the very beginning been working in the Packing Department where in addition to his wages he was getting Dust Allowance at Rs 8 per mensem and Shift Allowance at Rs 5 per mensem.
- (3) That the impugned transfer had been effected for no interest of work but only by way of victimisation as he had been an active Trade Union Leader from the very beginning.
- (4) That the notice issued to him by the management under section 9-A for effecting the above change or alteration in the conditions of his service was illegal and defective.
- (5) That no prior permission of this tribunal had been obtained by the management before passing the order in question which was prejudicial to his interests as his case for being up-graded was pending adjudication, —vide reference No. 23 mentioned above.
- (6) That in 1967 also the management had transferred him from the Packing Department to the Stores Department and on his demand a settlement had been arrived at between the parties in conciliation proceedings on 2nd December, 1970 whereby his right to remain in the Packing Department had been recognised by the management and he had been retransferred to that department.

With the above allegations the complainant has urged that the impugned order of his transfer from the Packing Department to the Stores Department has been brought about in contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 and hence this complaint. He has requested for the passing of such order as may be deemed fit and proper in the circumstances of the case.

The management has contested the complaint filed by Shri Bhim Sain mainly on the ground that his appointment was as a clerk and it was the inherent right of the employer to transfer him from one department to another department and as such there had been no contravention of the provisions of section 33 of the Act.

The following issues arose for determination in the case :—

- (1) Whether there has been a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947, on account of the transfer of Shri Bhim Sain complainant from Packing Department to Stores Department ? (On complainant).
- (2) If issue No. 1 is proved whether the transfer in question of the complainant was illegal and not justified ?
- (3) Relief.

Shri Bhim Sain complainant has made his own detailed statement besides examining Shri Hari Singh, Secretary, Dalmia Dadri Cement Factory Men's Union as W.W. 2. He has further relied upon a number of documents which are mostly admitted by the management including copy of the notice under section 9-A, Ex. W.W. 1/1, copy of the settlement, dated 2nd December, 1970 under-section 12(3) Ex. W.W. 1/2, copy of the order, dated July 30, 1965 directing Shri Lekhi Ram to assist Shri Bhim Sain in the Packing Department W.W. 1/3.

On the other hand, the management has examined Shri S. K. Sharma, Assistant Secretary and reliance has been placed reliance upon 9 documents including copies of office order, dated November, 3, 1971 making certain changes in the working of the Clerk M.W. 1/1, another letter, dated January 18, 1972 of the same nature, Ex. M.W. 1/2, notice, dated 8th September, 1970 under-section 9-A of the Industrial Disputes Act, 1947, issued to Shri Ghamandi Lal, Clerk in the Packing Department, M.W. 1/3, transfer order, dated May 11, 1965, Ex. M.W. 1/4 of Shri Ram Narain Clerk to the Crusher Department, another letter, dated January 30, 1968 transferring Shri Ram Narain, Clerk in the Accounts Section as desired by him, Ex. M.W. 1/5, order, dated May 30, 1964 transferring Shri Bhim Sain from Packing Department to the Stores Department, M.W. 1/6, notice, dated October 10, 1972 given to Shri Bhim Sain under-section 9-A of the Industrial Disputes Act, 1947, Ex. M.W. 1/7, notice, dated 20th October, 1967 issued to Shri Bhim Sain, under-section 9-A of the aforesaid Act informing him about the change of his duties hours in the Store Department instead of the Packing Department, Ex. M.W. 1/8, the original letter of appointment of Shri Bhim Sain, dated August 28, 1959 as a Clerk, Ex. M.W. 1/9.

The case has been fully argued on both sides and I have given a very careful consideration to the material on record.

As would be clear from the facts stated above, Shri Bhim Sain the present complainant, had joined service with the management as a Clerk in the Packing Department in 1959 and he had been working in this Department throughout except for a short interval of 3 to 4 months in the year, 1964. It has further been established that he has been an active Trade Union Leader and has been a member of the Union since 1959.

Cement Factory Men's Union since 1969. There is no denying the fact that as a Packing Clerk he was getting Dust Allowance at Rs 8 per mensem and Shift allowance at Rs 5 per mensem in additions to his monthly wages. The pendency of the dispute,—*vide* reference No. 23 of 1972 containing the demands of the Clerks in the Packing Department as stated above when the impugned order of the transfer of Shri Bhim Sain from the Packing Department to the Stores Department was passed is also an admitted fact. His contention is that the said order has been passed by the management by way of victimisation on account of his trade Union activities and in contravention of the provision of section 33 of the Industrial Disputes Act, 1947. The management on the other hand, has contended that the order was passed in the interest of work as a routine and the appointment of Shri Bhim Sain, the complainant, being from the very beginning as a Clerk the management was well within its rights to transfer him from one department to another and in doing so no alteration in his service conditions had been effected so as to attract the provisions of section 33 and as such the complaint filed by Shri Bhim Sain under section 33-A of the Act was not competent.

The question which is of vital importance and arises for consideration in the case whether the management had contravened the provisions of section 33 of the Act by altering any condition of service of the present complainant so as to justify his complaint under section 33-A. Although the original order of the appointment of Shri Bhim Sain as a clerk in the Packing Department in 1959 Ex. M.W. 1/9 does not provide that he was liable to transfer to some other department as and when the management considered necessary it can be said that as a general rule an employer has the inherent right to transfer a clerk from one department to another according to the exigency of the work and such a transfer in the ordinary course of business would not amount to any alteration in his service conditions. Keeping in view however the peculiar facts and the circumstances brought on the record, the above general principle can not be made applicable to the instant case. As already stated, Shri Bhim Sain had joined service in the Packing Department in 1959 and had throughout worked in this department where he was getting Dust and Shift Allowances in additions to his usual wages. The management had transferred him to the Stores Department in 1967 and feeling aggrieved he had raised a demand whereupon conciliation proceedings were initiated and in the conciliation proceedings the management had entered into a settlement with him recognising his right of working in the Packing Department and he was re-transferred to that department. This is clear from the copy of the settlement filed in the case Ex. W.W. 1/2. This was a settlement under section 12(3) of the Industrial Disputes Act, 1947 and has not been denied by the management. This settlement in a way goes to show that it had become a condition of service of the present complainant that he would work only in the Packing Department and the management had recognised this right of his by entering into the said settlement in the conciliation proceedings. There is another fact on record which further goes a long way to support the case of the complainant. Before effecting the transfer in question the management had given notice under section 9-A of the Industrial Disputes Act to Shri Bhim Sain, copy whereof has been filed by the management also and is Ex. M.W. 1/7 on record. If the transfer did not amount to any alteration in the service conditions of the complainant where was the necessity for the management to give this notice to him. In other words the management was conscious of the fact that by transferring Shri Bhim Sain complainant from the Packing Department to the Stores Department an alteration in his service condition would be brought about, especially in view of the aforesaid earlier settlement arrived at between the parties under section 12(3) of the Industrial Disputes Act, for which the issue of the notice as contemplated under section 9-A was considered necessary. This notice was however defective for the simple and obvious reason that it fell short of the period of 21 days as provided in section 9-A. The notice was admittedly issued on 10th October, 1972 and was received by Shri Bhim Sain on 13th October, 1972 and it had to take effect from 31st October, 1972. He had thus only 19 days notice instead of 21 days as provided by law and as such it could not be considered to be a valid notice.

It would thus appear that during the pendency of the dispute *vide* reference No. 23 of 1972, in which the present complainant was a workman concerned, besides being a protected workman, the management had altered the condition of his service by passing the impugned order of his transfer from the Packing Department to the Stores Department without giving him valid notice as contemplated under section 9A of the Industrial Disputes Act and without obtaining the prior permission of this Tribunal. His demand for being up-graded was pending adjudication. He had been deprived of the allowances he was getting in the Packing Department in addition to his usual wages. He had naturally been prejudiced by the order. Nothing has been brought on the record to indicate as to what interest of work was involved in passing this order. In the circumstances, the possibility of the order having been passed by way of victimisation on account of the trade union activities of the complainant as alleged by him, can not be ruled out.

For the reasons aforesaid, issues Nos. 1 and 2 are decided in favour of the complainant and against the management holding that the impugned order of the transfer of the complainant from the Packing Department to the Stores Department is illegal and not justified being in contravention of the provision of section 33 of the Industrial Disputes Act, 1947 and as such it deserves to be set aside. The complaint, in the result, is allowed, and the management is directed to transfer the complainant back to the Packing Department with immediate effect. There would be no order as to costs.

O. P. SHARMA,

Presiding Officer  
Industrial Tribunal, Haryana.  
Faridabad.

Dated the 14th October, 1974.

No. 1303, dated 15th October, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Date d the 15th October, 1974.

O.P. SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9713-4Lab-74/32933.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Clutch Auto (P) Ltd., Faridabad:—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 177 of 1973

*Between*

SHRI BHAGWAT SINGH WORKMAN AND THE MANAGEMENT OF M/S CLUTCH AUTO  
(P) LIMITED, FARIDABAD

*Present.*—Shri Onkar Parshad, for the workman.  
Shri R.C. Sharma, for the management.

#### AWARD

Shri Bhawat Singh concerned workman was in the service of M/s Clutch Auto (P) Limited, Faridabad, as a Welder having joined on 1st August, 1971, at Rs 190 per mensem. According to him, the Foreman Shri Harbhajan Singh assaulted him on 16th July, 1973, and forcibly obtained his resignation and his services were terminated without any justification. Feeling aggrieved he raised a demand for reinstatement but without any success. This gave rise to an industrial dispute. The matter was taken up for conciliation by means of demand notice dated 17th July, 1973, which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the above dispute for adjudication to this Tribunal,—*vide* order No. ID/FD/73/437/41285, dated 15th October, 1973, with the following term of reference:—

Whether the termination of services of Shri Bhagwat Singh is justified and in order? If not, to what relief is he entitled?

The parties put in their respective pleadings. The management contended that it being a case of the voluntary resignation by the workman. The provisions of section 2(a) of the Industrial Disputes Act were not attracted to the facts of the case and no industrial dispute existed between the parties within the meaning of which could be referred for adjudication to this Tribunal. It was further urged that the demand, the subject matter of the present reference, had not first been raised on the management and rejected by it to constitute an industrial dispute.

The above pleadings of the management stood controverted in the statement of claim filed on behalf of the workman. It was specifically alleged that the so called resignation had been obtained from him under duress or coercion by the Foreman Shri Harbhajan Singh who had assaulted him. It was further urged that a complaint in this behalf was made to the management as well as to the Labour-cum-Conciliation Officer and the Bhartia Mazdoor Sangh.

From the pleading of the parties the following issues arose for determination in the case:—

- (1) Whether the resignation dated 12th July, 1973, of Shri Bhagwat Singh concerned workman was obtained by the management under duress (on workman)?
- (2) In case issue No. 1 is not proved whether the management has paid the dues to the workman? If so, to what extent? (on management).
- (3) Whether the demand the subject matter of the present reference was first raised by the management and rejected by it? If not to what effect?
- (4) Whether the termination of services of Shri Bhagwat Singh is justified and in order? If not, to what relief is he entitled?

Shri Bhagwat Singh workman concerned has made a detailed statement on oath in support of his above allegations. According to him, Shri Harbhajan Singh Foreman had given him beating and compelled him to tender the resignation Exhibit M-1 and that he was not paid any dues by the management. He also denied the endorsements marked 'A' and 'C' on the resignation Exhibit M-1 which according to him were not made in his presence. He has further stated that he got treatment from the E.S.I. dispensary vide medical slip Exhibit W-1 and that he had lodged a complaint about this matter to the S.H.O. Central Faridabad copy Exhibit W-2 and copies of the complaint were also sent to the Deputy Commissioner and Deputy Superintendent Police Gurgaon under registered cover vide postal receipt Exhibit W-3. He has further proved the demand notice dated 17th July, 1973 given to the management under registered cover, postal receipt Exhibit W-4 to which the management did not give any reply. He has also relied upon the report of the Conciliation Officer Exhibit W-5 and the forwarding letter Exhibit W-6. Still another averment has been made by him that during the period of his forced unemployment he has not been able to get any alternative job inspite of his best efforts.

The management has led no evidence, oral or documentary, except for bringing on record the so called resignation Exhibit M-1.

The case has been well argued on both sides and I have given a very considered thought to the material on record.

As would be clear from the facts discussed above, the case of the management is that the present workman had voluntarily submitted his resignation and collected his dues and as such no industrial dispute existed between the parties to attract the provisions of section 2(A) under which the demand notice leading to the present reference was given by the workman. This was specifically denied by the workman and it was stated in clear and unambiguous words that the resignation had been obtained from him by force by giving him beating. The burden was heavy on the management to rebut this allegation and prove that the said resignation was tendered by the workman of his own accord without any coercion on the part of the management but the management has simply failed to discharge this burden. In spite of this specific allegation made by the workman not only in the statement of claim filed in the present proceedings but also in the demand notice leading to the present reference that he had been assaulted by Shri Harbhajan Singh who had forcibly obtained the so called resignation. The management could not have the courage to examine Shri Harbhajan Singh who was serving as Foreman at the relevant time. The withholding of this important evidence gives rise to the presumption that if produced Shri Harbhajan Singh would not have supported the case of the management. No reasonable explanation is forthcoming for the non-production of this important witness. The plea of coercion in the matter of obtaining the resignation from him is not an after thought. The workman had raised this plea before the Conciliation Officer also as would be clear from the perusal of the conciliation report Exhibit W-5. There is further no evidence to indicate that the said resignation had ever been accepted by the management and the dues of the workman had been paid to him as alleged in the written statement. Had it been a case of voluntarily resignation the workman would have collected his dues and there was no necessity for him to lodge a report with the police and other authorities and to raise the demand for his reinstatement. In the absence of cogent and convincing evidence to show that the so called resignation was an act of free will of the workman concerned, the plea raised by the management in this behalf has to be considered as preposterous. The workman, on the other hand, has succeeded in establishing from his sworn testimony and documentary evidence that the resignation had been obtained from him by giving him beating for which he got treatment from the E.S.I. dispensary.

That disposes of issues Nos. 1 and 2 which for the reasons aforesaid are decided against the management and in favour of the workman and it is held that the resignation in question was obtained from the workman concerned under duress and that he had not been paid any dues.

### Issue No. 3—

With regard to this issue also the management has no case to make out. The workman concerned has stated on oath that after the resignation had been forcibly obtained from him he had lodged a complaint to the management and the other authorities demanding re-instatement but there was no response from the management. He then gave the demand notice to the management under registered cover but his demand was not accepted. In the circumstances, it can not be said that the demand was not properly raised on the management and rejected by it so as to constitute an industrial dispute as defined under section 2(j) of the Industrial Disputes Act. In the conciliation proceedings also the management did not show any willingness to take this workman back on duty although it was specifically pleaded by him that the foreman had given him beating and obtained the resignation by force. No official of the management has come forward to make a statement on oath that the demand was not first raised by the workman and rejected by it before the matter was taken up for conciliation. Not an iota of evidence has been led on behalf of the management to rebut the overwhelming oral and documentary evidence produced by the workman in support of his case. The issue is accordingly decided in favour of the workman and against the management.

In view of my above findings on issues Nos. 1 and 2 that the resignation in question was not voluntarily submitted by the workman concerned but was obtained from him under duress, the management has no case whatever to justify the termination of his service. On the other hand, it has been established beyond any shadow of doubt that the management had in fact indulged in high handedness and unfair labour practice by obtaining the resignation of the workman under coercion in order to throw him out of the job. According to him, he has not

gainfully employed during the intervening period inspite of his best efforts to get some alternative job. Issue No. 4, is, therefore, decided against the management and in favour of the workman holding that the impugned order of the termination of his services passed by the management is illegal, unjustified and has to be set-aside as such.

In the result, he is entitled to reinstatement with continuity of previous service and full back wages. The award is accordingly made. The workman concerned is also entitled to Rs. 100 as costs of the present proceedings.

Dated the 4th October, 1974.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 1150, dated the 1st October, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 4th October, 1974.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

MISS M. SETH,  
Commissioner and Secretary to Government, Haryana,  
Labour and Employment Department.

## TOWN AND COUNTRY PLANNING DEPARTMENT

The 16th October, 1974

No. 4463-2 TCP-74.—In exercise of the powers conferred by sub-section (1) of section 4 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, the Governor of Haryana is pleased to declare the area around the Municipal Town of Rewari as specified in the schedules given below and shown in the plan appended hereto be a controlled area for the purposes of the said Act, namely :—

### SCHEDULES

*North-East* :—Starting from a point formed by the intersection of south-eastern boundary of Rewari-Jhajjar Road and village boundary of village Bikaner viz. 'A'; thence south-eastwards along village boundary of the said village and village Gokalgarh, thence along the north-eastern boundary of the revenue rasta joining villages namely Nayagaon, Lisana, Bhagwanpur and Chaterpuri and thence along the north-eastern village boundary of villages Phaderi, Hansaka and Baliar Khurd upto a point 'B' where it meets north-eastern boundary of Rewari-Delhi road.

*South-East* :—Thence crossing the Delhi-Rewari road towards south-west along the south-eastern village boundary of villages Baliar Khurd, Baliar kalan, Mundia khera, Fatehpuri-pipa, Mulahawas and Ladhuwas-Gujar; thence along the northern boundary of Delhi-Jaipur National Highway upto a point 'C' where it meets the village boundary of village Kasula.

*South-West* :—Thence towards north-west along south-western village boundary of villages, namely, Kasula, Lalpur, Dawana, Dhamika, Dewlawas, Gujjiwas, Bithwana, Jatuwas, Deliaki and Hussinpur upto a point 'D' where it meets southern boundary of Rewari-Narnaul road.

*North-West* :—Thence towards north-east along north-western village boundary of village Sharunwas, thence along the north-western boundary of revenue rasta joining villages, namely, Kharguwas and Dhoki, thence crossing the Rewari-Jhajjar road to meet its south-eastern boundary and thence along south-east boundaries of Rewari-Jhajjar road upto point of start viz. point 'A'.

See Map Page No. 1239

A. BANERJEE,

Secretary to Government, Haryana,  
Town and Country Planning Department.



